COMMISSION NEWS

ARIZONA CORPORATION COMMISSION, 1200 W. WASHINGTON, PHOENIX, AZ 85007

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FOR: IMMEDIATE RELEASE — CONTACT: Heather Murphy (602) 542-0844

COMMISSION PULLS TWO SECURITIES LICENSES AND SUSPENDS ANOTHER

PHOENIX – The Arizona Corporation Commission sanctioned three registered securities salesmen for violating the state's securities laws. The Commissioners ruled on the cases last Thursday. The decisions became final on Monday after all five Commissioners signed the official orders.

Philip William Merrill

The Arizona Corporation Commission revoked the registration of 65-year-old securities salesman Philip William Merrill and ordered him to pay $5,000 in penalties for making unsuitable and unauthorized transactions for five investors, four of whom were senior citizens. The Commission also ordered Merrill to pay restitution of $41,667.

The Commission found that Merrill made unauthorized transactions in the securities accounts of four investors and unsuitable transactions in the account of one investor. Merrill conducted the illegal activity between 1997 and 2000 while he was a securities salesman at a Sun City branch of Morgan Stanley Dean Witter.

During the course of the investigation, the Commission's Securities Division learned that two of the five investors reached settlement agreements with Morgan Stanley Dean Witter and did not seek restitution in this case.

The Commission found that the transactions in one of the accounts were unsuitable because Merrill had an unreasonable percentage of an elderly woman's securities portfolio in a high-yield, "junk" bond fund. "Junk" bonds are rated below investment grade. Most financial experts advise that only a small percentage of a diversified portfolio should be invested in "junk" bonds.

The Commission found that Merrill violated the antifraud standards of Arizona's securities laws by failing to adequately diversify the customer's securities portfolio, exposing the investor to high risk of financial loss.

All five investors provided testimony at the administrative hearing, which began in August of 2002 and concluded in January of 2003. The investors stated how they relied on Merrill's financial advice due to their lack of experience and knowledge about investing.

Merrill, by his own admission, engaged in an unauthorized transaction in one investor's account even after he wrote a letter to the National Association of Securities Dealers (NASD) that addressed similar allegations by another investor. In his correspondence to the NASD, Merrill had indicated that he would refrain from such unauthorized trading activity. Morgan Stanley Dean Witter terminated Merrill in April 2001.

Robert J. Brannon

The Commission entered into a consent order with 53-year-old securities salesman Robert J. Brannon of Chandler, who agreed to pay $5,000 in penalties and return over $70,000 of commissions earned from selling unregistered viatical contracts to at least 15 investors.

The Commission also revoked Brannon's securities salesman registration. As a condition of this revocation, Brannon agreed not to reapply in Arizona for least twelve months, and even then only after he has satisfied all payment obligations as prescribed under the order. Brannon is currently licensed as an insurance agent in Arizona.

From approximately January 1998 through January 2001, Brannon offered and sold at least 45 viatical contracts issued through a Florida-based company, Mutual Benefits Corporation. The principal amount of the viatical investments sold by Brannon totaled approximately $850,000.

Technically launched as a way to help terminally ill patients meet their financial obligations, the viatical business involves the purchase of future death benefits from insured individuals, at a marked discount, for subsequent resale to investors. When one of these insured individuals - or "viators" - ultimately dies, investors are ostensibly in a position to profit off the proceeds of the viator's life insurance policy.

Despite the apparent simplicity of viatical programs, viaticals are often high-risk, complex investments. One prominent risk factor for these investments is the inherent difficulty in accurately predicting when an insured individual will die. Also making viatical programs dangerous is the fact that some policies are fraudulently obtained, often resulting in the denial of death benefits by the defrauded insurance company.

James T.M. Verbic

The Commission suspended for 60 days the registration of 36-year-old securities salesman, James T.M. Verbic of Paradise Valley and ordered him to pay a $2,000 penalty for his unethical activity in the securities industry.

The Commission found that Verbic borrowed or attempted to borrow money from two of his securities customers, which is a violation of Arizona's securities laws. Verbic conducted the illegal activity between 1991 and 2000 while he was a financial consultant at Merrill Lynch, Pierce, Fenner & Smith, Inc., in Scottsdale.

One Merrill Lynch customer loaned $30,000 to Verbic's music business. The Commission found, however, that his side business was not organized as a corporation, partnership or other entity. This meant that the customer essentially made a loan to Verbic, even though Verbic had a partner with 50 percent ownership of the business.

The Commission did not seek restitution in this case as Verbic returned all the principal and interest to his customer. After his two-month suspension and payment of penalties is complete, Verbic may reapply for securities licensure in Arizona.

The public is urged to determine an individual's registration or licensure status by contacting the Commission's Securities Division at 602-542-4242 or toll free, 1-877-811-3878. The Division's website also has helpful information for investors, www.ccsd.cc.state.az.us

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